

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of: Ecker, *et al.*

Serial No.: 10/660,122

Group No.: 1637

Filed: 09/11/03

Examiner: Bertagna

Entitled: **METHODS FOR RAPID IDENTIFICATION OF PATHOGENS IN HUMANS AND ANIMALS**

**TERMINAL DISCLAIMER TO OBVIATE
A DOUBLE PATENTING REJECTION
OVER PRIOR PATENTS**

Mail Stop Amendment
Commissioner for Patents
P.O. Box 1450
Alexandria, Virginia 22313-1450

The Commissioner is hereby authorized to charge any necessary fees and credit any overpayment to Deposit Account 50-4302, referencing Attorney Docket No. DIBIS-002US.P3.

Examiner Bertagna:

I, Jason R. Bond, represent that I am an agent of record for this invention. The Assignee, Ibis Biosciences, Inc., 1896 Rutherford Road, Carlsbad, California, 92008, is the owner of one-hundred percent (100%) interest in the instant application. The assignment from the inventors to Isis Pharmaceuticals was recorded in the Patent and Trademark Office at Reel 014315, Frame 0162, and from Isis Pharmaceuticals to Ibis Biosciences, Inc. at Reel 019690, Frame 0036.

Petitioner hereby disclaims, except as provided below, the terminal part of the statutory term of any patent granted on the instant application, which would extend beyond the expiration date of the full statutory term defined in 35 U.S.C. §§154 to 156 and 173 of prior Patent Nos.: 7,217,510 and 7,255,992, both of which are assigned to Ibis Biosciences, Inc., and hereby agrees that any patent so granted on the above-identified instant application shall be enforceable only for and during such period that the legal title to said patent be the same as the legal title to the above referenced patents, this agreement to run with any patent granted on the above-identified instant application and to be binding upon the grantee, its successors or assigns.

In making the above disclaimer, petitioner does not disclaim the terminal part of any patent granted on the instant application that would extend to the expiration date of the full statutory term as defined in 35 U.S.C. §§154 to 156 and 173, as presently shortened by any terminal disclaimer, in the event that any of Patent Nos.: 7,217,510 and 7,255,992 should expire for failure to pay a maintenance fee, are held unenforceable, are found invalid by a court of competent jurisdiction, are statutorily disclaimed in whole or terminally disclaimed under 37 CFR § 1.321, have all claims cancelled by a reexamination certificate, are reissued, or are otherwise terminated prior to the expiration of their full statutory terms.

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

The undersigned is empowered to act on behalf of the assignee.

Dated: April 8, 2008

/Jason R. Bond/

Jason R. Bond
Reg. No. 45,439

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